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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/071,929

02/06/2002

Werner Blatz

4286

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11/17/2004

FASSE PATENT ATTORNEYS, P.A.

P.O. BOX 726

HAMPDEN, ME 04444-0726

EXAMINER

HOLLOWAY III, EDWIN C

ART UNIT

PAPER NUMBER

2635

DATE MAILED: 11/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/071,929	<b>Applicant(s)</b> BLATZ, WERNER	
	<b>Examiner</b> Edwin C. Holloway, III	<b>Art Unit</b> 2635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 August 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2 and 11-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2,11-14 and 16-28 is/are rejected.
- 7) ☒ Claim(s) 15 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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***Examiner's Response***

1. In response to applicant's amendment filed 12 August 2004, all the amendments to the specification and claims have been entered. The examiner has considered the new presentation of claims and applicant's arguments in view of the disclosure and the present state of the prior art. And it is the examiner's opinion that the claims are unpatentable for the reasons set forth in this Office action:

***Drawings***

2. The drawings were received on 12 August 2004. These drawings are accepted by the examiner.

***Claim Rejections - 35 USC § 102 & 103***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

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4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 17 and 27-28 are rejected under 35 U.S.C. 102(b) as being anticipated by Jang (US 5579373). Regarding claims 17 and 28, Jang discloses a method and system in which a first unit (base station) measures received signal amplitude levels and a second unit (mobile station) measures received signal amplitude levels. The second unit transmits measurement report to the first unit. The first unit receives the measurement report from the second unit and compares the levels measured at the first unit to levels measured at the second unit. See the abstract, col. 3 line 38 col. 4 line 6, col. 6 lines 20-57, and col. 8 lines 36-53. The components of the two units are shown in fig. 1. See col. 4 lines 57-66. Regarding claim 27, fig. 1 shows a single antenna (2).

6. Applicant cannot rely upon the foreign priority papers to overcome the following rejections in which Nowottnick (US 6757545) is applied because a translation of said papers has not

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been made of record in accordance with 37 CFR 1.55. See MPEP § 201.15.

7. Claims 1-2, 11, 16-19 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Nowottnick (US 6757545). Regarding claims 1 and 17, Nowottnick discloses a method in which a first unit (PKE base station on vehicle) measures received amplitude and a second unit (PKE card) measures received amplitude. The second unit transmits measurement information to the first unit. The first unit receives the measurement information from the second unit and compares the components measured at the first unit to components measured at second unit. See col. 4 lines 1-47. Regarding claim 2, a redirection indicator is provided by supplying signal to open a door or block door opening in col. 4 lines 38-47. Regarding claims 11 and 22, the transmitted measured value is encrypted in col. 3 line 1. Regarding claim 16, redirection or "relay attack" is detected in col. 1 lines 35-37 and col. 4 lines 38-47. Regarding claim 18-19, permitting continuation to open a door if comparison is within a threshold (extent allowed by tolerances of components) is disclosed in col. 4 lines 38-47.

8. Claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowottnick (US 6757545) as applied above in view of Muller (US 6208239). Regarding claim 12, Muller

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includes time window or time range to limit control to predetermined distances. See col. 1 line 55 - col. 2 line 51 and col. 4 lines 13-43. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the time window of Muller in the method of Nowottnick to limit control to predetermined distance for increased security. Regarding claim 25, col. 3 lines 4-5 of Muller discloses that communication at the same frequency would have been an obvious alternative to communicating at different frequencies.

9. Claims 13-14, 23-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowottnick (US 6757545) as applied above in view of Avenel (US 6483425). Regarding claims 12-14 and 23-24, Avenel discloses measuring frequency to prevent unauthorized repeater in a vehicle access method. See the abstract, col. 2 lines 20-42 and col. 6 lines 47-51. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included the frequency measurement of Avenel in the method of Nowottnick to further detect pirate transmissions for increased security. Regarding claims 14 and 26, the frequency detection of Avenel would also have detected carrier interruption.

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10. Claims 20-21 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Nowottnick (US 6757545) as applied above in view of Stippler (US 6218932). Regarding claims 20-21, comparing ID in addition to amplitude measurement is disclosed in col. 5 lines 27-35 of Stippler. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have included this feature of Stippler in the method of Nowottnick as an additional way of checking authorization for increased security because Nowottnick suggest ID code in col. 1 line 33. Regarding claim 27, Stippler shows single antenna to be obvious alternative to plural antennas in col. 7 lines 1-4.

***Allowable Subject Matter***

11. Claim 15 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The applied prior art lacks simultaneous comparison of amplitude, frequency and ID code values.

***Response to Arguments***

12. Applicant's arguments with respect to claims 1-2 and 11-28 have been considered but are moot in view of the new ground(s) of rejection. The rejections relying on Stippler in view of common knowledge have been withdrawn in response to applicant's arguments, but new prior art rejections have been applied. Note

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that the Office Action Summary for this action correctly acknowledges the foreign priority.

**CONTACT INFORMATION**

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact an Electronic Business Center (EBC) representatives at 703-305-3028 or toll free at 866-217-9197 between the hours of 6 a.m. and midnight Monday through Friday EST, or by e-mail at [ebc@uspto.gov](mailto:ebc@uspto.gov). The Patent EBC is a complete customer service center that supports all Patent e-business products and service applications. Additional information is available on the Patent EBC Web site at <http://www.uspto.gov/ebc/index.html>.

Any inquiry of a general nature should be directed to the Technology Center 2600 receptionist at (571) 272-2600.

Facsimile submissions may be sent via fax number (703) 872-9306 to customer service for entry by technical support staff. Questions regarding fax submissions should be directed to customer service voice line (703) 306-0377.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edwin C. Holloway, III whose telephone number is (571) 272-3058. The examiner can normally be reached on M-F (8:30-5:00). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068.



**EDWIN C. HOLLOWAY, III  
PRIMARY EXAMINER  
ART UNIT 2635**

**EH  
11/14/04**